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U.S. DISTRICT COURT E.D.N.Y.

VIA ECF

The Honorable Sandra J. Feuerstein
United States District Judge
United States District Court for
the Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

★ AUG 04 2014 ★

LONG ISLAND OFFICE

**Re: Cecil Thomas et al. v. TXX Services, Inc. et al.
U.S. District Court for the Eastern District of New York
Civil Action No. 2:13-CV-02789-SJF-WDW**

Dear District Judge Feuerstein:

We represent Defendants TXX Services, Inc. ("TXX") and Patricia Hunt ("P. Hunt") (collectively, "Defendants") in connection with the above-referenced action. We write to provide additional information to supplement our letter to Your Honor dated July 28, 2014 [Docket No. 117], and seek additional relief as described below. Since we filed that letter, TXX has been informed that Plaintiffs served the subpoenas, which formed the basis of our letter, on Bellco and John Raschi.

In light of the Court's July 29, 2014 Order to Show Cause, we requested that Plaintiffs' counsel withdraw the subpoenas pending the Court's ruling. Ex. 1. Plaintiffs' counsel continues to refuse to withdraw the subpoenas. *Id.* We believe this refusal is inappropriate for three reasons. First, Plaintiffs are still not entitled to take the depositions or obtain the discovery they seek at this point. Second, Plaintiffs have yet to demonstrate any basis for seeking this discovery. Third, TXX, Bellco, and Mr. Raschi will have to spend time and money preparing for the depositions, even if the Court ultimately determines that the depositions are inappropriate, because Plaintiffs have noticed the depositions for August 8, 2014, a mere three days after the deadline for Plaintiffs to show cause.

Defendants respectfully request that the Court direct Plaintiffs to withdraw the two subpoenas, pending the Court's Order in this matter. Should the Court determine that Plaintiffs are entitled to any of the discovery they have requested in these subpoenas, such discovery should be obtained (if necessary) through new subpoenas with new dates for depositions that will allow the parties, Bellco, and Mr. Raschi sufficient time to prepare.

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We thank the Court in advance for its continued attention to this matter.

Respectfully submitted,

/s/ Jeffrey W. Pagano

Jeffrey W. Pagano

Enclosure

cc (via ECF, with enclosure):

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Counsel for Plaintiffs

Defendants' application is granted. Plaintiffs
are to withdraw the subpoenas that are
the subject of the Order to Show Cause.

So Ordered.

s/ Sandra J. Feuerstein

U.S.D.J. 8/4/14